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TAX EXEMPT AND
GOVERNMENT ENTITIES
DIVISION

DEPARTMENT OF THE TREASURY
INTERNAL REVENUE SERVICE
WASHINGTON, D.C. 20224

T. EP. RA. TY

AUG 17 2011

Uniform Issue List: 408.03-00

Legend:

Taxpayer A	=
IRA X	=
Institution B	=
Company C	=
Amount A	=
Amount D	=
Date 1	=

Dear Ms. :

This is in response to a letter dated , supplemented by a letter dated , in which you request a waiver of the 60-day rollover requirement contained in section 408(d)(3) of the Internal Revenue Code (the "Code").

The following facts and representations have been submitted under penalty of perjury in support of the ruling requested.

Taxpayer A, age , represents that, on Date 1, she received a distribution from IRA X totaling Amount A. Taxpayer intended to make a partial rollover of Amount D. She asserts that her failure to accomplish a rollover of Amount D within the 60-day period prescribed by section 408(d)(3) of the Code was due to her reliance on incorrect advice she received from an employee of Institution B,

who erroneously told her that she had already missed the deadline for rolling over the distributed funds.

On Date 1, Taxpayer A received a distribution from IRA X of Amount A. Within the 60-day period, Taxpayer A became aware that there were unexpected tax ramifications stemming from the distribution. She was advised by a family member that she could avoid them by rolling over a portion of the funds into another IRA within 60 days of the original distribution but that she should confirm that advice. Within the 60-day period, Taxpayer A called the information line operated by Institution B and spoke to an employee, who incorrectly advised her that she was required to roll over the distribution in the same tax year, a deadline that had already passed. Although, at the time of that call, Taxpayer A still had time within the 60-day period to roll over the distributed funds into another IRA, she relied on the advice that she had received from Institution B and did not become aware that it was incorrect until after the 60-day period had expired.

Based on the facts and representations, you request a ruling that the Service waive the 60-day rollover requirement with respect to Amount D.

Section 408(d)(1) of the Code provides that, except as otherwise provided in section 408(d), any amount paid or distributed out of an IRA shall be included in gross income by the payee or distributee, as the case may be, in the manner provided under section 72 of the Code.

Section 408(d)(3) of the Code defines, and provides the rules applicable to IRA rollovers.

Section 408(d)(3)(A) of the Code provides that section 408(d)(1) of the Code does not apply to any amount paid or distributed out of an IRA to the individual for whose benefit the IRA is maintained if:

(i) the entire amount received (including money and any other property) is paid into an IRA for the benefit of such individual not later than the 60th day after the day on which the individual receives the payment or distribution; or

(ii) the entire amount received (including money and any other property) is paid into an eligible retirement plan (other than an IRA) for the benefit of such individual not later than the 60th day after the date on which the payment or distribution is received, except that the maximum amount which may be paid into such plan may not exceed the portion of the amount received which is includible in gross income (determined without regard to section 408(d)(3)).

Section 408(d)(3)(B) of the Code provides that section 408(d)(3) does not apply to any amount described in section 408(d)(3)(A)(i) received by an individual from an IRA if at any time during the 1-year period ending on the day of such receipt such individual received any other amount described in section

408(d)(3)(A)(i) from an IRA which was not includible in gross income because of the application of section 408(d)(3).

Section 408(d)(3)(D) of the Code provides a similar 60-day rollover period for partial rollovers.

Section 408(d)(3)(I) of the Code provides that the Secretary may waive the 60-day requirement under sections 408(d)(3)(A) and 408(d)(3)(D) of the Code where the failure to waive such requirement would be against equity or good conscience, including casualty, disaster, or other events beyond the reasonable control of the individual subject to such requirement. Only distributions that occurred after December 31, 2001, are eligible for the waiver under section 408(d)(3)(I) of the Code.

Revenue Procedure 2003-16, 2003-4 I.R.B. 359 (January 27, 2003) provides that in determining whether to grant a waiver of the 60-day rollover requirement pursuant to section 408(d)(3)(I), the Service will consider all relevant facts and circumstances, including: (1) errors committed by a financial institution; (2) inability to complete a rollover due to death, disability, hospitalization, incarceration, restrictions imposed by a foreign country or postal error, (3) the use of the amount distributed (for example, in the case of payment by check, whether the check was cashed); and (4) the time elapsed since the distribution occurred.

The information presented and documentation submitted by Taxpayer A is consistent with her assertion that her failure to accomplish a timely rollover of Amount D was caused by her reliance on incorrect advice she received from Institution B, that the deadline for rolling over Amount D had already expired when, in fact, she was still within the 60-day period.

Therefore, pursuant to section 408(d)(3)(I) of the Code, the Service hereby waives the 60-day rollover requirement with respect to the rollover of Amount D. Provided all other requirements of section 408(d)(3) of the Code, except the 60-day requirement, are met with respect to such contribution, the deposit of Amount D within 60 days from the date of this letter ruling into a Rollover IRA will be considered a valid rollover contribution within the meaning of section 408(d)(3) of the Code.

No opinion is expressed as to the tax treatment of the transaction described herein under the provisions of any other section of either the Code or regulations which may be applicable thereto.

This letter is directed only to the taxpayer who requested it. Section 6110(k)(3) of the Code provides that it may not be used or cited as precedent.

If you wish to inquire about this ruling, please contact

201145029

(ID #) at
SE:T:EP:RA:T3.

. Please address all correspondence to

Sincerely yours,

Ada Perry

for

, Manager
Employee Plans Technical Group

Enclosures:

Deleted copy of ruling letter
Notice of Intention to Disclose